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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,874	03/03/2003	Ivan Vachovsky		6660

7590
Ivan Vachovsky
10350 Barnes Canyon Rd.
San Diego, CA 92121

02/09/2007

EXAMINER

CORRIELUS, JEAN M

ART UNIT	PAPER NUMBER
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2162

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/689,874	Applicant(s) VACHOVSKY, IVAN	
	Examiner Jean M. Corrielus	Art Unit 2162	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment filed on November 16, 2006, in which claims 1-10 and 13-16 are presented for further examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 18, 2006 has been entered.

Remark

3. Applicant asserted that Walter do not disclose a portable memory device. The examiner disagrees with the precedent assertion. Walter, however, discloses a system for uploading digital photograph from a device to an online server over a communication network. In addition, Walter discloses a content medium (portable mass storage device) (smart media) (flash card) (see fig.1, item 13) suitable for storing digital photograph and a media reader may be any device capable of reading the content from the content media (13), wherein the media reader may be a flash card reader or smart media reader coupled to the content media (13) in any manner, such as by a cable (UBS cable) connection, network connection or by inserted the content medium (13) into a appropriate interface on the media reader embedded in the flash card or the smart media. Therefore, the content medium (portable mass storage device) (smart media) (flash card) (see

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fig.1, item 13) disclosed by Walter has a reader embedded therein to read the content information from the content medium. Walter does provide a portable memory device reader. Applicant should duly note that it is old and well known that such a portable "smart media" or "Flash card" does contains a memory reader embedded therein.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claims 1-10 and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Walters et al., (hereinafter "Walters") US Patent no. 6,914,695.

As to claim 1, Walters discloses the claimed

"a computer having a memory" (mass storage, 207 of fig.3; col.9, lines 65-67);

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“a portable memory device reader, communicatively connected to the computer and being selectively coupleable to the portable memory device”(the content media (flash card) or smart memory (13 of fig.2) inherently having a device reader embedded therein communicatively connected to computer system (10 of fig.2); “an image transfer module, connected to the portable memory device reader and configured to detect the coupling of the portable memory device to said reader and to copy the digital image from the portable memory device to the computer memory, by way of said reader” (transmitting the content (photography data) to the computer memory; col.10, lines 1-22); “a file uploader module, communicatively connected to the image transfer module and configured to send the digital image to the online server, connected to the computer network” (uploading the content information (photography data into the server; col.9, lines 4-22); and “the online server, being selectively connected to the file uploader module and being configured to automatically accept, store and make available over the computer network the digital image” (detecting and uploading the content (photography data) from the computer and make it accessible to the network; col.11, lines 5-10).

As to claim 2, Walter discloses the claimed “a billing and provisioning system, connected to the online server and including a relational database, the billing and provisioning system being configured to store user accounts in the database” (col.8, lines 11-22, lines 38-50).

As to claim 3, Walter discloses the claimed wherein the online server includes one or more albums, each album being associated with a single user, and wherein at least one album includes a folder” (col.7, lines 56-67; col.8, lines 1-22).

As to claim 4, Walter discloses the claimed “an album tools module which allows a user to manipulate, delete, and create folders in an album that is associated with the user” (col.7, lines 5-34, lines 56-67).

As to claim 5, Walters discloses the claimed “wherein each folder possesses distinct privacy settings” (col.11, lines 39-48).

As to claim 6, the limitations of claim 6 have been mentioned in the rejection of claim 1 above. It is, therefore, rejected under the same rationale.

As to claim 7, Walter discloses the claimed “creating a photo album in the online server by a user” (col.7, lines 5-34, lines 56-67).

As to claim 8, Walter discloses the claimed “placing the image in the photo album” (col.11, lines 5-13).

As to claim 9, Walter discloses the claimed “deleting a photo album” (free up the storage space (col.9, lines 58-62).

As to claim 10, The limitations of claim 10 have been mentioned in the rejection of claim 1 above. It is, therefore, rejected under the same rationale.

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As to claim 14, Walters discloses the claimed “wherein the portable memory device reader, the image transfer module, the file uploader module and the online server operate to retrieve an image from the portable memory device and make it available over the computer network without requiring any action from a human user other than the placing of the portable memory device in the portable memory device reader” (fig.3 and fig.4; col.7, lines 5-34, lines 56-67; col.8, lines 1-22, lines 38-62).

As to claim 15, Walters discloses the claimed “wherein the reading, copying, sending, and making the image available steps are performed without requiring any action from a human user” (col.7, lines 5-34, lines 56-67; col.8, lines 1-22, lines 38-62).

As to claim 16, Walters discloses the claimed “wherein the electronic device, the image transfer module, the file uploader module and the online server operate to retrieve an image from the electronic device and make it available over the computer network without requiring any action from a human user other than connecting the electronic device to the computer” (using the Bluetooth capability, col.11, lines 15-30).


Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M. Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jean M. Corrielus
Primary Examiner
Art Unit 2162

February 4, 2007